

March 19, 1942, by the Stanley Packing Co. from Fredonia, N. Y.; and charging that it was misbranded. The article was labeled in part: (Can) "Gervas Brand Pitted Red Sour Cherries * * * Packed by Gervas Canning Co., Fredonia, N. Y."

The article was alleged to be misbranded (1) in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulation as provided by law but its quality fell below such standard, since more than one pit was present in each 20 ounces of canned pitted cherries, and its label failed to bear in such manner and form as such regulations specify a statement that it fell below such standard; and (2) in that it purported to be a food for which a definition and standard of identity had been prescribed and its label did not bear the common names of the optional ingredients present in the article.

On July 16, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

3956. Misbranding of canned cherries. U. S. v. 48 Cases of Canned Cherries. Default decree of condemnation. Product ordered delivered to a Federal correctional institution. (F. D. C. No. 7767. Sample No. 95425-E.)

On June 19, 1942, the United States attorney for the Eastern District of Michigan filed a libel (amended June 22, 1942) against 48 cases of canned cherries at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about May 21, 1942, by W. G. Swanson, San Francisco, Calif., from Alameda, Calif.; and charging that it was misbranded. The article was labeled in part: (Can) " * * * Felice Fancy Pitted Black Bing Dark Sweet Cherries In Extra Heavy Syrup Packed By Hollister Canning Co. Hollister San Benito Co. California."

The article was alleged to be misbranded (1) in that the designation "Fancy," appearing in the labeling, was false and misleading as applied to an article not of fancy quality; (2) in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard since more than one pit was present in each 20 ounces of canned pitted cherries; (3) in that it purported to be and was represented as a food for which a standard of fill of container had been prescribed by such regulations, but it fell below such standard since the cans failed to contain the maximum quantity of cherries which could be sealed in the container and processed by heat without crushing the cherries; and (4) in that its label failed to bear, in such manner and form as such regulations specify, statements that it fell below such standards.

On August 7, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal correctional institution.

3957. Misbranding of canned cherries. U. S. v. 48 Cases of Canned Cherries. Default decree of condemnation and destruction. (F. D. C. No. 7591. Sample No. 78043-E.)

On June 1, 1942, the United States attorney for the Western District of Pennsylvania filed a libel against 48 cases of canned cherries at Erie, Pa., alleging that the article had been shipped in interstate commerce on or about May 6, 1942, by the Gervas Canning Co., from Fredonia, N. Y.; and charging that it was misbranded. The article was labeled in part: (Cans) "Gervas Brand Red Sour Pitted Cherries."

The article was alleged to be misbranded in that it purported to be a food for which a standard of quality had been prescribed by regulations as provided by law, but its quality fell below such standard because more than one pit was present in each 20 ounces of canned cherries, and its label did not bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On August 26, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

3958. Misbranding of canned peaches. U. S. v. 491 Cases of Canned Peaches. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 8077. Sample Nos. 95080-E, 95426-E, 21511-F.)

On August 8, 1942, the United States attorney for the Western District of Pennsylvania filed a libel against 491 cases, each containing 24 cans, of peaches at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about July 2, 1942, by the Pacific Grape Products Co., Modesto, Calif.;

and charging that it was misbranded. The article was labeled in part: "MY-TE-GOOD Brand Yellow Alberta Freestone Peaches in Heavy Syrup * * * Packed for Donahoe's, Pittsburgh, Pa."

The article was alleged to be misbranded in that it purported to be a food for which a standard of fill of container had been prescribed by regulations as provided by law, but it fell below such standard since the cans contained less than the maximum quantity of sliced peaches which could be sealed in the container and processed by heat to prevent spoilage without crushing or breaking such ingredient, and its labels failed to bear in such manner and form as the regulations specify a statement that it fell below such standard.

On August 21, 1942, V. L. McClay Co., Pittsburgh, Pa., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of the Food and Drug Administration.

3959. Adulteration of canned plums. U. S. v. 1,092 Cases of Canned Plums. Consent decree of condemnation. Product ordered released under bond for segregation and destruction of the unfit portion. (F. D. C. No. 7544; Sample Nos. 76734-E, 76949-E.)

Examination of this product showed the presence of moldy fruit.

On May 22, 1942, the United States attorney for the Northern District of Iowa filed a libel against 1,092 cases, each containing 6 cans, of plums at Cedar Rapids, Iowa, alleging that the article had been shipped in interstate commerce on or about September 18, 1941, by Silverton Canning Co. from Silverton, Oreg.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Valley Home Brand * * * Blue Plums (Prunes) Distributed by Nash-Finch Co., Minneapolis, Minn."

On August 10, 1942, Nash-Finch Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it should not be disposed of in violation of the law. The unfit portion was segregated and destroyed under the supervision of the Food and Drug Administration.

3960. Adulteration of canned asparagus. U. S. v. 280 Cases, 50 Cases, and 270 Cases of Canned Asparagus. Default decree of condemnation and destruction. (F. D. C. No. 7796. Sample Nos. 89548-E, 89549-E, 89550-E.)

Examination showed that a large proportion of this product had undergone flat-sour decomposition.

On June 23, 1942, the United States attorney for the Eastern District of New York filed a libel against a total of 600 cases of canned asparagus at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about May 19, 1942, by Apte Bros. Canning Co. from Woodside, Del.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. (Investigation disclosed that the product had been introduced in interstate commerce by the Kenton Packing Co. in the name of the Apte Bros. Canning Co., the latter firm acting as brokers in the transaction.) Portions of the article were labeled in part: (Cases) "24 No. 2 Sweet Life Xtra Large [or "Small Spears"] All Green Asparagus"; (cans) "All Green Spears Asparagus Sweet Life * * * Distributed By Sweet Life Food Corp. Brooklyn, N. Y." The remainder was labeled: (Case) "Small Asparagus Unlabeled."

On August 19, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

3961. Misbranding of canned corn. U. S. v. 462 Cases of Canned Corn. Consent decree of condemnation. Product ordered released under bond for re-labeling. (F. D. C. No. 7069. Sample No. 83558-E.)

On or about March 30, 1942, the United States attorney for the Northern District of Texas filed a libel against 462 cases, each containing 24 cans, of corn at Dallas, Tex., alleging that the article had been shipped in interstate commerce on or about December 26, 1941, by Fuhremann Canning Co. from Lanark, Ill.; and charging that it was misbranded in that the term "Fancy" was false and misleading as applied to an article that was not Fancy. The article was labeled in part: "Trappey Shield Label Fancy Cream Style Country Gentleman Corn."

On May 13, 1942, B. F. Trappey's Sons, Inc., Dallas, Tex., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled in accordance with the law.